

Questions for the Record for Ambassador Robert E. Lighthizer
U.S. House Ways and Means Committee
Hearing on U.S.-China Trade
February 27, 2019

From Representative Bill Pascrell, Jr. to Ambassador Robert E. Lighthizer

1. It has been reported that negotiations with China have included an agreement around currency manipulation, an issue which I have been concerned about for many years. I have read your comments from the 2010 U.S. China Security and Economic Commission, in which you laid out your standards for combatting currency manipulation. In them, you argued that China's practice of currency manipulation constituted a countervailable subsidy under our CVD law. I agree and have co-led a bill with former Rep. Sandy Levin that would treat it as such.

That bill, the Currency Reform for Fair Trade Act, would allow for the imposition of countervailing duties to address subsidies relating to undervalued currency of any foreign country. Does this Administration support this proposal, and will you work with me to see it become law?

Answer: I agree that currency issues are a major problem. I am open to working with anyone interested in legislative or other action to address it.

2. In the same comments, you argued that we should be "imaginative" in dealing with the issue of currency manipulation, including restricting imports, or even requesting compensation for value of lost market access.

Do the terms you have reached with China on currency live up to your own standards laid out in 2010? How will a commitment from China to refrain from interfering in their yuan's value be enforced?

Answer: As I noted in during the hearing, the Secretary of the Treasury is responsible for evaluating the currency practices of the United States' major trading partners. With respect to the China negotiations, the talks are still underway, but address a range of issues including, currency practices. The aim is to reach agreement to refrain from competitive devaluations in currency and to agree to a certain level of transparency that would be enforceable under the agreement.

3. As a follow-up, the egregious practices in China that harm U.S. companies have persisted for many years and grown worse. How will you ensure that the deal reached with China in these negotiations to resolve the Section 301 tariffs will be fully enforceable? What role will Congress have in the future to ensure the terms of the deal are enforced? What actions will Congress and future Administrations need to take to ensure China does not backslide into

continuing the practices of forced technology transfer, data and IP theft, restricting agricultural and services market access, and state subsidies?

Answer: If an agreement were to be reached between the United States and China, it will have to be one that is enforceable. That means that there will be effective consequences in the event that China does not live up to its commitments. As I discussed in my testimony, if there is an agreement, a process will be established with regular meetings at the staff, vice-ministerial, and vice-premier level. These channels will address individual instances and systemic problems that companies are encountering in areas covered by the agreement. If these problems cannot be resolved within defined timeframes, then the United States would expect to take appropriate actions in response to any failure to follow through with the commitments in the agreements.

With respect to the future, no one agreement or negotiation can resolve fully each and every challenge posed by China in our economic and trading relationship. Based on the record of experience since China joined the multilateral trading system, it is reasonable to expect new issues and problems to arise. Both Congress and administrations to come will need to continue to focus on the long-term competitiveness of the United States. In the near term, it will be both the job of the Congress and the Administration to ensure that sufficient resources and personnel are allocated to monitor China's actions, and to develop new tools to address any of China's actions that are problematic.

4. I supported the investigation undertaken by USTR under Section 301 of the Trade Act of 1974 into forced technology transfer and IP theft in China. The issues of data and intellectual property theft and forced technology transfer are growing problems faced by U.S. companies in China, and components in a suite of policies that give China an unfair advantage in trade.

In negotiations to resolve the trade enforcement actions taken under this Section 301 investigation, you have included additional areas of contention beyond the scope of the investigation. For instance, agricultural market access has been discussed. In the hearing, I asked you about this issue. Can you explain in writing how the scope of these negotiations was determined? Who decided to include agricultural market access?

Answer: The focus of the Section 301 investigation initiated in August 2017 was on China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The long-standing concerns of the United States with respect to its trading relationship with China are broader and expansive. The United States has long been concerned with China's approach to the economy and trade and the extent to which they do not reflect the principles of nondiscrimination, market access, reciprocity, fairness and transparency. President Trump and President Xi met in Buenos Aires in December 2018. In that meeting, President Trump and President Xi agreed to begin negotiations on structural changes with respect to a wide range of issues, including forced technology transfer, intellectual property protection, non-tariff barriers, cyber intrusions and cyber theft, services and agriculture.

5. You answered in the hearing that you did not believe labor or environmental issues should be included in the scope of these negotiations. Why was agricultural market access included, but labor and the environment (or human rights concerns, for that matter) were not? Do you intend to address labor and environment concerns in a future 301 investigation into China's unfair trade practices? If you have no immediate plans, do you believe a Section 301 action could be taken in these areas under future Administrations?

Answer: Under President Trump's leadership, the United States is committed to working toward a more fair and reciprocal trade relationship with China. In the current negotiations with China, we are seeking to address a wide range of unfair trade practices. Although we are not currently directly addressing labor and environment standards, I am committed to working with you and other Members of Congress to discuss options and policy tools for addressing these important issues.

6. Section 301 has been cited as a tool to enforce future trade agreements, including the recently negotiated U.S.-Mexico-Canada Agreement (USMCA). Do you believe labor and environment issues can be addressed through 301 enforcement actions in general, even though you did not include those issues in the China negotiations?

Answer: Section 301 of the Trade Act of 1974 (Trade Act) is designed to address a wide range of unfair practices. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements, including with respect to labor and environment obligations. Section 301 may also be used to respond to unreasonable or discriminatory foreign government practices that burden or restrict U.S. commerce, including practices involving labor rights and environmental issues.

7. China has an existing obligation under the 2012 Film Memorandum of Understanding ("Film Agreement") with the US, which settled a WTO case lost by China, to provide additional meaningful compensation. Currently, U.S. studios' shares of revenue in China generated by their movies is well below international norms (40% to 50% of gross box office receipts). President Xi committed to update the Agreement seven years ago to address this problem. Will you insist on implementing this existing commitment in your negotiations with the Chinese government?

Answer: In a 2012 Memorandum of Understanding (MOU) relating to theatrical films, the United States and China reached an alternative solution with regard to certain rulings relating to the importation and distribution of theatrical films in a WTO dispute that the United States won. Among other things, China agreed in the MOU to raise the share of box office revenue received by U.S. film producers. The MOU also provided that it would be reviewed in calendar year 2017 in order for the two sides to discuss issues of concern, including further meaningful compensation for the U.S. side in terms of, among other things, the U.S. film producers' share of box revenue. In 2017, in accordance with the terms of the MOU, the two sides began discussions regarding the

provision of further meaningful compensation to the United States. It is a priority for the United States to ensure that, as part of the negotiations launched by Presidents Trump and Xi on December 1, 2018, China fulfills its MOU obligations, including by allowing U.S. film producers to realize a share of box office revenue consistent with market rates around the world.